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**JUN 15 2004**

**OFFICE OF PETITIONS**

In re Application of	:	
George, et al.	:	
Application No. 09/884,696	:	ON PETITION
Filed: June 19, 2001	:	
Attorney Docket No. 407J-000700US	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" and "Contingent Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", both filed March 29, 2004 (Certificate of Mailing dated March 25, 2004).

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment, mailed April 22, 2003. This Office action set a shortened statutory period for reply of one month. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on May 23, 2003. A Notice of Abandonment was mailed on December 12, 2003.

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Petition Under 37 CFR 1.181:

Petitioner contends that he never received the Notice of Non-Compliant Amendment. Petitioner has not met the showing required to establish non receipt of an Office action. In addition to stating that an Office action was not received, a practitioner must attest to the fact that a search of the file jacket and docket records indicates non-receipt. Furthermore, a practitioner must include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.<sup>1</sup> Petitioner has not included a copy of the docket record.

Petition Under 37 CFR 1.137(b):

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a response to the Notice of Non-Compliant Amendment.

The application file is being forwarded to Group Art Unit 1645 for consideration of petitioner's response, filed March 29, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

*Cliff Congo*

Cliff Congo  
Petitions Attorney  
Office of Petitions

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<sup>1</sup> See MPEP 711.03(c) (II).

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